THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

CHAPTER I.

PRELIMINARY.

1. Short title, extent and operation.
2. Definitions.
3. Reference to time of day.
4. Exemptions.
5. Application of Act to other establishments and persons.
6. Suspension of all or any of the provisions of this Act.

CHAPTER II.

REGISTRATION OF ESTABLISHMENTS.

7. Registration of establishments.
8. Change to be communicated to Inspector.
9. Closing of establishment to be communicated to Inspector.

CHAPTER III.

SHOPS AND COMMERCIAL ESTABLISHMENTS.

10. Opening hours of shops.
11. Closing hours of shops.
12. Hawking prohibited before opening and after closing hours of shops.
13. Opening and closing hours of commercial establishments.
14. Daily and weekly hours of work in shops and commercial establishments.
15. Interval for rest in shops and commercial establishments.
16. Spread-over in shops.
17. Spread-over in commercial establishments.
18. Holidays in a week in shops and commercial establishments.

CHAPTER IV.

RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES.

19. Opening and closing hours of restaurants and eating houses.
20. Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops.
21. Daily hours of work in residential hotels, restaurants and eating houses.
22. Interval for rest.
23. Spread-over.
24. Holidays in a week.
25. Employer to furnish identity card to employee.

SECTIONS.

CHAPTER V.

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT.

26. Closing hour of theatres or other places of public amusement or entertainment.
27. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.
28. Daily hours of work in theatres or other places of public amusement or entertainment.
29. Interval for rest.
30. Spread-over.
31. Holidays in a week.

CHAPTER VI.

EMPLOYMENT OF CHILDREN, YOUNG PERSONS AND WOMEN.

32. No child to work in any establishment.
33. Young persons and women to work between 6 a.m. to 7 p.m.
34. Daily hours of work for young persons.

CHAPTER VII.

LEAVE WITH PAY AND PAYMENT OF WAGES.

35. Leave.
36. Pay during leave.
37. Payment when to be made.
38. Application and amendment of the Payment of Wages Act.

CHAPTER VIII.

HEALTH AND SAFETY.

39. Cleanliness.
40. Ventilation.
41. Lighting.
42. Precautions against fire.

CHAPTER IX.

ENFORCEMENT AND INSPECTION.

43. Powers and duties of local authorities.
44. Power to make by laws.
45. Delegation.
46. Power of Provincial Government to provide for performance of duties on default by local authority.
47. Expenses of local authority to be paid out of its fund.
48. Appointment of Inspectors.
49. Powers and duties of Inspectors.
50. Inspectors to be public servants.
51. Employer to produce registers, records, etc., for inspection.

SECTIONS.

CHAPTER X.

OFFENCES AND PENALTIES.

52. Contravention of certain provisions and offences.
53. Contravention of section 12.
54. Employee contravening sections 18 (2), 24, 31 and 65.
55. False entries by employer and manager.
56. Enhanced penalty in certain cases after previous conviction.
57. Penalty for obstructing Inspector.
58. Determination of employer for the purposes of this Act.
59. Exemption of employer or manager for liability in certain cases.
60. Cognisance of offences.
61. Limitation of prosecutions.

CHAPTER XI.

MISCELLANEOUS AND SUPPLEMENTAL.

62. Maintenance of registers and records and display of notices.
63. Wages for overtime work.
64. Evidence as to age.
65. Restriction on double employment on a holiday or during leave.
66. Notice of dismissal.
67. Rules.
68. Protection to persons acting under this Act.
69. Rights and privileges under other law, etc., not affected.
70. Persons employed in factory to be governed by Factories Act and not by this Act.
71. Submission of annual report, etc.
72. Repeal of Bombay Shops and Establishments Act, 1939.

SCHEDULE I.

SCHEDULE II.

BOMBAY ACT No. LXXIX OF 1948.[1]

[THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.]

[*11th January 1949.*]

Amended by Bom. 17 of 1949.

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Bombay Shops and Establishments Act, 1948. Short title, extent and operation.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall in the first instance come into force in the local areas specified in Schedule I.

(*4*) The Provincial Government shall by notification published in the *Official Gazette* direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(*5*) The Provincial Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

(*2*) "Child" means a person who has not completed his twelfth year;

(*3*) "Closed" means not open for the service of any customer or open to any business connected with the establishment;

(*4*) "Commercial establishment" means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on any business, trade or profession or work in

XXI of 1860.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 499.

connection with or incidental or ancillary thereto buttoes not include a factory, shop, residential hotel, restaurant, eating house, d theare or other place of public amusement or entertainment;

(*5*) "Day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

(*6*) "Employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice but does not include a member of the employer's family;

(*7*) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(*8*) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the Provincial Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(*9*) "Factory" means any premises which is a factory within the meaning of [1][clause (*m*) of section 2 of the Factories Act, 1948, or which is deemed to be a factory under section 85 of the said Act;] LXIII of 1948.

(*10*) "Goods" includes all materials, commodities and articles;

(*11*) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;

(*12*) "Inspector" means an Inspector appointed under section 48;

(*13*) "Leave" means leave provided for in Chapter VII of this Act;

(*14*) "Local area" means any area or combination of areas to which this Act applies;

(*15*) "Local authority" means a municipality constituted under the City of Bombay Municipal Act, 1888, the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or a local board constituted under the Bombay Local Boards Act, 1923; Bom. III of 1888. Bom. III of 1901. Bom. XVIII of 1925. Bom. VI of 1923.

(*16*) "Manager" means a person declared to be a manager under section 7;

(*17*) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;

(*18*) "Opened" means opened for the service of any customer;

(*19*) "Period of work" means the time during which an employee is at the disposal of the employer;

(*20*) "Prescribed" means prescribed by rules made under this Act;

(*21*) "Prescribed authority" means the authority prescribed under the rules made under this Act;

[1] This portion was substituted for the original by Bom. 17 of 1949, s, 2.

(*22*) "Register of establishments" means a register maintained for the registration of establishments under this Act;

(*23*) "Registration certificate" means a certificate showing the registration of an establishment;

(*24*) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes a club;

(*25*) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;

(*26*) "Schedule" means a Schedule appended to this Act;

(*27*) "Shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, used in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(*28*) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;

(*29*) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

IV of 1936. (*30*) "Wages" means wages as defined in the Payment of Wages Act, 1936;

(*31*) "Week" means the period of seven days beginning at midnight of Saturday;

(*32*) "Year" means a year commencing on the first day of April;

(*33*) "Young person" means a person who is not a child and has not completed his seventeenth year.

Reference to time of day.

3. References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of Greenwich mean time.

Exemptions.

4. Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule:

Provided that the Provincial Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

Application of Act to other establishments and persons.

5. (*1*) Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptations

as may in the opinion of the Provincial Government be necessary shall apply from such date as may be specified in the notification.

(*2*) On such declaration under sub-section (*1*), any such establishment or class of establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees.

Suspension of all or any of the provisions of this Act.

6. The Provincial Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

CHAPTER II.

Registration of Establishments.

Registration of establishments.

7. (*1*) Within the period specified in sub-section (*4*), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed, containing—

(*a*) the name of the employer and the manager, if any;

(*b*) the postal address of the establishment;

(*c*) the name, if any, of the establishment;

(*d*) the category of the establishment, *i.e.*, whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and

(*e*) such other particulars as may be prescribed.

(*2*) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(*3*) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.

(*4*) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (*1*):—

1 Establishments.	Date from which the period of 30 days to commence.
(*i*) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force.	The date on which this Act comes into force.
(*ii*) Establishments existing in local areas on the date on which this section comes into force.	The date on which this section comes into force in the local area.

Establishments.	Date from which the period of 30 days to commence.
(*iii*) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work.

Change to be communicated to Inspector.

8. It shall be the duty of an employer to notify to the Inspector, in a prescribed form, any change in respect of any information contained in his statement under section 7 within seven days, after the change has taken place. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

Closing of establishment to be communicated to Inspector.

9. The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate.

CHAPTER III.

Shops and Commercial Establishments.

Opening hours of shops.

10. (*1*) No shop—

(*a*) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the Provincial Government shall on any day be opened earlier than 5 a.m.;

(*b*) dealing in goods other than those specified in clause (*a*) of this sub-section, shall on any day be opened earlier than 7-0 a.m.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

Closing hours of shops.

11. (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no shop—

(*a*) dealing in goods other than those specified in clause (*b*) of this sub-section, shall on any day be closed later than 8-30 p.m.;

(*b*) dealing in *pan*, *bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11-0 p.m.:

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

Hawking prohibited before opening and after closing hours of shops.

12. (*1*) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate.

(*2*) Any person contravening the provisions of sub-section (*1*) shall be liable to have his goods seized by an Inspector :

Provided that the goods so seized shall be returned to him on his depositing rupees twenty-five as security for his appearance in Court.

Opening and closing hours of commercial establishments.

13. (*1*) No commercial establishment shall on any day be opened earlier than 8-30 a.m. and closed later than 8-30 p.m.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

Daily and weekly hours of work in shops and commercial establishments.

14. (*1*) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(*2*) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (*1*), if such period does not exceed three hours in any week.

(*3*) On not more than six days in a year which the Provincial Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking, settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (*1*), if such excess period does not exceed twenty-four hours.

Interval for rest in shops and commercial establishments.

15. No employee shall be required or allowed to work in any shop or commercial establishment for more than five hours in any day unless he has had an interval for rest of at least one hour.

Spread-over in shops.

16. The spread-over of an employee in a shop shall not exceed eleven hours in any day :

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day :

Provided also that where an employee works on any day in accordance with the provisions of sub-section (*2*) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (*3*) of the said section, the spread-over shall not exceed sixteen hours in any such day.

Spread-over in commercial establishments.

17. The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day :

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

Holidays in a week in shops and commercial establishments.

18. (*1*) Every shop and commercial establishment shall remain closed on one day of the week. The employer shall fix such day at the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. The employer shall

not alter such day more often than once in three months, shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(*3*) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed.

CHAPTER IV.

Residential Hotels, Restaurants and Eating Houses.

Opening and closing hours of restaurants and eating houses.

19. (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than 11 p.m. for service :

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4-30 a.m. and shall not be required to work later than 11-30 p.m :

Provided also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(*3*) Notwithstanding anything contained in this section or any other enactment for the time being in force, on not more than ten days in a year on festive or special occasions, the Provincial Government may, by notification in the *Official Gazette*, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops.

20. Before and after the hours fixed for the opening and closing of shop under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

Daily hours of work in residential hotels, restaurants and eating houses.

21. (*1*) Except on the days that may be notified under sub-section (*3*) of section 19, no employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than nine hours in any day.

(*2*) On the days which may be notified under sub-section (*3*) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (*1*), if such excess period does not exceed three hours in any day.

Interval for rest.

22. No employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than five hours in any day unless he has had an interval for rest of at least one hour.

Spread-over.

23. The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours :

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (*3*) of section 19.

Holidays in a week.

24. (*1*) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday.

Employer to furnish identity card to employee.

25. The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :—

(*a*) the name of the employer ;

(*b*) the name, if any, and the postal address, of the establishment ;

(*c*) the name and age of the employee ;

(*d*) the hours of work, the interval for rest and the holiday, of the employee.

CHAPTER V.

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT.

Closing hour of theatres or other places of public amusement or entertainment.

26. Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than twelve midnight.

27. After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.

28. No employee shall be required or allowed to work in any theatre or other place of public amusement or entertainment for more than nine hours in any day. Daily hours of work in theatres or other places of public amusement or entertainment.

29. No employee shall be required or allowed to work in any theatre or other place of public amusement or entertainment for more than five hours in any day unless he has had an interval for rest of at least one hour. Interval for rest.

30. The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day : Spread-over.

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

31. (*1*) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday : Holidays in a week.

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

CHAPTER VI.

Employment of Children, Young Persons and Women.

32. No child shall be required or allowed to work whether as an employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer. No child to work in any establishment.

Young persons and women to work between 6 a. m. and 7 p. m.

33. No young person or woman shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 a.m. and after 7 p.m., notwithstanding that such young person or woman is a member of the family of the employer.

Daily hours of work for young persons.

34. (*1*) Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(*2*) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

CHAPTER VII.

Leave with Pay and Payment of Wages.

Leave.

35. (*1*) Every employee who has worked for not less than two hundred and seventy days during a year, shall be allowed, during the subsequent year, leave, consecutive or otherwise, for a period of not less than fourteen days, inclusive of the day or days during the period of such leave, on which, a shop or commercial establishment remains closed under sub-section (*1*) of section 18 or he is entitled to a holiday under sub-section (*1*) of section 24 or section 31 :

Provided that such leave may be accumulated up to a maximum period of twenty-eight days,

(*2*) If an employee entitled to leave under sub-section (*1*) is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(*3*) If an employee entitled to leave under sub-section (*1*) is refused the leave, he may give intimation to the Inspector or any other officer authorized in this behalf by the Provincial Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

Pay during leave.

36. Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

Payment when to be made.

37. An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

Application and amendment of the Payment of Wages Act.

38. (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936, herein referred to as " the said Act ", the Provincial Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (*2*), the said Act shall apply to all or any class of establishments or to all or any class of employees to which or whom this Act for the time being applies. IV of 1936.

(*2*) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (*1*), the Inspector appointed under this Act shall

be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VIII.

HEALTH AND SAFETY.

Cleanliness.

39. The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorising.

Ventilation.

40. The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

Lighting.

41. (*1*) The premises of every establishment shall be sufficiently lighted during all working hours.

(*2*) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

Precautions against fire.

42. In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

CHAPTER IX.

ENFORCEMENT AND INSPECTION.

Powers and duties of local authorities.

43. Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, with in the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the Provincial Government as may be prescribed :

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by its Chief Executive Officer or any other officer subordinate to it :

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the Provincial Government to enforce the said provisions.

Power to make by-laws.

44. A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the Provincial Government, make by-laws not inconsistent with the provisions of the Act, or the rules or orders made by the Provincial Government thereunder, for the purpose of carrying out the provisions of this Act.

Delegation.

45. (*1*) The Provincial Government may by order direct that any of its functions under any of the provisions mentioned below shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be exercised or discharged by any local authority or any officers subordinate to it, namely :—

Sub-section (*2*) of section 11, sub-section (*2*) of section 13, section 17, sub-sections (*2*) and (*3*) of section 19, section 23 and section 30.

(*2*) Nothing in this Act shall derogate from the right of the Provincial Government to exercise any or all the functions hereby delegated to any local authority or officer subordinate to it.

Power of Provincial Government to provide for performance of duties on default by local authority.

46. (*1*) If any local authority makes default in the performance of any duty imposed by or under this Act, the Provincial Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall to be paid forthwith by the local authority.

(*2*) If the expense and remuneration are so paid, the Provincial Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

Expenses of local authority to be paid out of its fund.

47. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

Appointment of Inspectors.

48. (*1*) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

(*2*) In areas which are not subject to the jurisdiction of any local authority, the Provincial Government shall appoint Inspectors with the prescribed qualifications.

Powers and duties of Inspectors.

49. Subject to any rules made by the Provincial Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, at all reasonable times and with such assistants, if any, being persons in the service of the Crown or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;

(*b*) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any person as he may deem necessary, for carrying out the purposes of this Act; and

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Inspectors to be public servants.

50. Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Employer to produce registers, records, etc., for inspection.

51. Every employer shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER X.

Offences and Penalties.

Contravention of certain provisions and offences.

52. (*a*) If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9 ; or

(*b*) if in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder ; or

(*c*) if in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31; or

(*d*) if in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34 ; or

(*e*) if any employer contravenes the provisions of section 51, 62 or 65; or

(*f*) if in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

Contravention of section 12.

53. If any person contravenes the provisions of section 12, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

Employee contravening sections 18 (2), 24, 31 and 65.

54. If an employee contravenes the provisions of sub-section (*2*) of section 18 24, 31 or 65, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

False entries by employer and manager.

55. If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or wilfully omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or

causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder, which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

Enhanced penalty in certain cases after previous conviction.

56. If any employer and manager who have been convicted of any offence under sub-section (*1*) of section 10, 11, 13, 14, 18, 19, 24, 31, or 34 or under sub-section (*2*) or (*3*) of section 14 or under section 55 or under section 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees ; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction :

Provided further that, for the purposes of this section, no cognisance shall be taken of any conviction made more than two years before the commission of the offence which is being punished :

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

Penalty for obstructing Inspector.

57. Whoever wilfully obstructs an Inspector in the exercise of any power under section 49, or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

Determinaton of employer for the purposes of this Act.

58. (*1*) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the Province to be the employer for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(*2*) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the emp oyer in the establishment is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a share holder who is resident in the Province to be the employer in the establishment for the purposes of this Act,

and such director or share holder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or share holder.

Exemption of employer or manager from liability in certain cases.

59. (*1*) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liablility under this Act.

(*2*) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(*a*) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(*b*) by what person the offence has been committed, and

(*c*) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as if he were the employer or manager.

Cognisance of offences.

60. (*1*) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the Provincial Government or the local authority, as the case may be.

(*2*) No court inferior to that of a Presidency Magistrate or a Magistrate of a Second Class shall try any offence against this Act or any rule or order made thereunder.

Limitation of prosecutions.

61. No court shall take cognisance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

CHAPTER XI.

MISCELLANEOUS AND SUPPLEMENTAL.

Maintenance of registers and records and display of notices.

62. Subject to the general or special orders of the Provincial Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

Phone
M. R. Dattanahalli,
Ex M L A.
GULEDGUDD.
Dist:Bijapur

Wages for overtime work.

63. (*1*) Where an employee in any establishment other than a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of one and a half times his ordinary rate of wages.

(*2*) Where an employee in a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of twice his ordinary rate of wages.

Explanation.—For the purposes of this section the expression "limit of hours of work" shall mean—

(*a*) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;

(*b*) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and

(*c*) in the case of employees in any other establishment, such hours as may be prescribed.

Evidence as to age.

64. (*1*) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(*2*) A declaration in writing by a [1] [qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

Explanation.—For the purposes of this section, a [1] [qualified medical practitioner] shall have the same meaning as in the Factories Act, [2] [1948]. L of 1

Restriction on double employment on a holiday or during leave.

65. No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

Notice of dismissal.

66. No employer shall dispense with the services of an employee who has been in his continuous employment for not less than three months, without giving such person at least fourteen days' notice in writing or wages in lieu of such notice:

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct.

Rules.

67. (*1*) The Provincial Government may make rules to carry out the purposes of the Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely:—

(*a*) the appointment of prescribed authority under clause (*21*) of section 2;

[1] These words were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.

[2] These figures were substituted for the figures "1934", *ibid.*

(*b*) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6;

(*c*) the form of submitting a statement, the fees and other particulars under sub-section (*1*), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (*2*), of section7; and the form for notifying a change and the fees under section 8;

(*d*) fixing six days in a year for additional overtime under sub-section (*3*) of section 14;

(*e*) fixing ten days in a year for overtime under sub-section (*3*) of section 19;

(*f*) further particulars to be prescribed for an identity card under section 25;

(*g*) the form of register for entering refusal of leave to be kept under section 35;

(*h*) fixing times and methods for cleaning the establishments under section 39; fixing standards and methods for ventilation under section 40; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under, section 42;

(*i*) the supervision which the Provincial Government shall exercise over local authorities under section 43;

(*j*) the qualifications of Inspectors appointed under section 48 and their powers and duties under section 49;

(*k*) the registers and records to be maintained and notices to be displayed under section 62;

(*l*) the limit of hours of work under clause (*c*) of the *Explanation* to section 63;

(*m*) any other matter which is or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.

Protection to persons acting under this Act.

68. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Rights and privileges under other law, etc., not affected.

69. Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award,settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

Persons employed in factory to be governed by Factories Act and not by this Act.

70. Nothing in this Act shall be deemed to apply to any person employed in or within the precincts of a factory and the provisions of the Factories Act, [1][1948], shall, notwithstanding anything in the said Act, apply to such person.

LXIII of 1948.

Submission of annual report, etc.

71. It shall be the duty of every local authority to submit, within three months after the close of the year, to the Provincial Government a report on the working of the Act within the local area under its jurisdiction during such year. it shall also submit to it from time to time such annual or periodical returns as may be required.

Repeal of Bombay Shops and Establishments Act, 1939.

72. On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939, shall be repealed:

Bom. XXIV of 1939.

Provided that—

(*a*) every appointment, order, rule, by-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded

[1] These figures were substituted for the figures "1934" by Bom. 17 of 1949, s. 4.

by any appointment, order, rule, by-law, regulation, notification or notice made, issued or given under this Act;

(*b*) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

SCHEDULE I.

[Section 1 (*3*).]

Local areas.

1. The City of Bombay.
2. The Ahmedabad Municipal Borough and Cantonment.
3. The Poona City and Suburban Municipal Boroughs.
4. The Poona Cantonment.
5. The Sholapur Municipal Borough.
6. The Barsi Municipal Borough.
7. The Nasik Municipal Borough.
8. The Godhra Municipal Area.
9. The Surat Municipal Borough.
10. The Kalyan Municipal Area.
11. The Bandra Municipal Area.
12. The Parle-Andheri Municipal Borough.
13. The Ghatkopar-Kirol Municipal Area.
14. The Panvel Municipal Area.
15. The Kurla Municipal Area.
16. The Bulsar Municipal Area.
17. The Malegaon Municipal Area.
18. The Dhulia Municipal Area.
19. The Thana Municipal Borough.
20. The Nadiad Municipal Borough.
21. The Baramati Municipal Area.
22. The Dohad Municipal Area.
23. The Amalner Municipal Borough.
24. The Yeola Municipal Area.
25. The Kapadvanj Municipal Area.
26. The Pandharpur Municipal Borough.
27. The Bhusawal Municipal Borough.
28. The Jalgaon Municipal Borough.
29. The Satara Municipal Borough.
30. The Ratnagiri Municipal Area.
31. The Ahmednagar Municipal Borough.
32. The Chalisgaon Municipal Borough.
33. The Belgaum Municipal Borough.
34. The Bijapur Municipal Borough.
35. The Dharwar Municipal Borough.
36. The Mahad Municipal Area.
37. The Ankleshwar Municipal Area.
38. The Uran Municipal Area.
39. The Broach Municipal Area.
40. The Gadag Municipal Area.
41. The Hubli Municipal Borough.
42. The Bhiwandi Municipal Area.

SCHEDULE II.

(Section 4.)

Exemptions.

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1		3
	I. Establishments.	
1	Offices of the Central Government	All provisions.
2	Offices of the Provincial Government	Do.
3	Offices of local authorities	Do.
4	Offices of the Bombay Port Trust	Do.
5	Offices of any Railway administration	Do.
6	Bazars or fairs for the sale of goods for charitable or other purposes from which no profit is derived.	Do.
	II. Employees and other persons.	
7	Employees exclusively working in an establishment as clearing or forwarding clerks responsible for the despatch of goods by rail or other means of transport and for customs formalities.	Sections 10, 11, 13 to 18 (both inclusive).
8	Employees exclusively employed in any establishment in the collection, delivery or conveyance of goods outside the premises of any establishment.	Do.
9	Employees in such chemists' or druggists' establishments as are approved by the Provincial Government or the prescribed authority by a general or special order in this behalf.	Do.
10	Employees employed for the purpose of attending upon the sick, infirm, destitute or mentally unfit.	Do.
11	Employees in any establishment wholly or principally engaged in the sale of ice, aerated waters or funeral requisites.	Do.
12	Travellers, canvassers and such other employees who are declared by the Provincial Government by notification published in the *Official Gazette* in this behalf to be employees whose work is inherently intermittent.	Do.
13	Employees in stalls and refreshment rooms at railway stations, docks, wharves and airports.	Section 19.
14	Employees working in any establishment as watchmen, care-takers and messengers.	Sections 10, 11, 13 to 19 (both inclusive), 22 to 24 (both inclusive), 26, 28 to 31 (both inclusive).
15	The members of an employer's family	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive).
16	A person occupying position of management or an employee engaged in a confidential capacity : Provided that the number of such persons in any establishment shall not exceed ten per cent. of the total number of employees therein, any fraction being rounded up to the next higher integer.	Do.